



122 W. Washington Avenue
Suite 300
Madison, Wisconsin 53703-2715

608/267-2380
800/991-5502
Fax: 608/267-0645

E-mail: league@lwm-info.org
www.lwm-info.org

To: Assembly Committee on Homeland security and State Preparedness
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities
Date: November 27, 2008
Re: AB 581, Limiting Emergency Powers

The League of Wisconsin Municipalities opposes AB 581, prohibiting municipalities from using emergency powers to restrict the possession, display or use of firearms.

Section 166.23 of the Wisconsin statutes empowers the governing body of any municipality, notwithstanding any other provision of law to the contrary, to declare, by ordinance or resolution, an emergency existing within the city, village or town whenever conditions arise "by reason of war, conflagration [fire], flood, heavy snow storm, blizzard, catastrophe, disaster, riot or civil commotion, acts of God, and including conditions, without limitation because of enumeration," which impair transportation, food or fuel supplies, medical care, fire, health or police protection or other vital facilities of the municipality.

The ordinance or resolution must limit the emergency period to the time during which the emergency conditions exist or are likely to exist.

The governing body's emergency power includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the municipality's health, safety, welfare and good order and includes, without limitation because of enumeration, the power to bar, restrict or remove all unnecessary traffic, both vehicular and pedestrian, from the local highways, notwithstanding any contrary provisions of law.

AB 581 would impose the first and only limitation on these broad emergency powers. The bill interferes with the ability of municipalities to restore calm and protect law abiding citizens in times of civil unrest or other emergency situations. If this bill were to become law, a municipality facing an emergency could ban all vehicles from the city streets, but could not prohibit persons from possessing, displaying or using firearms on the streets. This defies common sense.

The League urges you to vote against recommending passage of AB 581. Thanks for considering our comments.

STRONG COMMUNITIES MAKE WISCONSIN WORK



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Stephen R. Miller
Chief

One East Main Street, Suite 200
P.O. Box 2037
Madison, WI 53701-2037
www.legis.state.wi.us/lrb/

Legal Section: (608) 266-3561
Legal Fax: (608) 264-6948
Library Circulation: (608) 266-7040
Reference Section: (608) 266-0341
Reference Fax: (608) 266-5648

TO: Representative Gunderson

FROM: Robin Ryan, Legislative Attorney

DATE: December 4, 2007

RE: Assembly Bill 581

This memo responds to your questions regarding 2007 Assembly Bill 581 (AB 581). You asked the following:

1. If a state or local official uses emergency powers to close a road during a state of an emergency, would the road closure apply to a person who has a firearm or ammunition in his or her possession?
2. Does existing law with respect to firearms and ammunition, such as the requirement to encase a firearm during transport, continue to have effect during a state of emergency?

AB 581 qualifies the use of emergency powers. It provides that a state or local official may not use emergency powers to restrict the possession, transfer, sale, transport, storage, display, or use of a firearm or ammunition during a state of emergency.

The bill clearly prohibits state and local officials from using emergency powers to issue an order that directly prohibits transporting a firearm or ammunition. You question whether the bill also prohibits a state or local official from issuing an order that has an indirect effect of restricting the transport of a firearm or ammunition as, for example, a road closure might. A road closure is not a measure to restrict firearms or ammunition. The most natural reading of the bill is that it does not prohibit state and local officials from using emergency powers to issue orders that indirectly restrict activities related to firearms or ammunition, and such an order would apply to a person who has a firearm or ammunition in his or her possession.

You also asked for clarification as to how the bill affects existing laws related to firearms or ammunition. Under current law, restrictions related to firearms or ammunition continue to have effect during a state of emergency unless a state or local official uses emergency powers to issue an order that lifts or eases a restriction. AB 581 makes no change with regard to this matter. Thus, under current law and AB 581, laws related to encasing a firearm for transport continue to have effect during a state of emergency unless a state or local official uses emergency powers to change the requirements concerning encasing a firearm during transport.

Please contact me with any additional questions.



NATIONAL RIFLE ASSOCIATION OF AMERICA

INSTITUTE FOR LEGISLATIVE ACTION

11250 WAPLES MILL ROAD

FAIRFAX, VIRGINIA 22030-7400

Tuesday November 27, 2007

Chairwoman Joan Ballweg
Committee on Homeland Security and Emergency Preparedness
400 Northeast
Wisconsin State Capital
Madison, WI 53708

Dear Chairwoman Ballweg,

I come before you today as a registered lobbyist speaking on behalf of the National Rifle Association. I am here to voice my support for AB 581. This legislation is vitally important to all law-abiding citizens in the great state of Wisconsin. The purpose of this legislation is to secure a citizens' constitutional right to keep and bear arms during a declared state of emergency. During emergency situations governmental agencies and law enforcement agencies are given special powers to keep the peace and maintain civil order. Recently it has become apparent that unless those emergency powers are clearly spelled out, they can be exploited by some of these agencies to restrict citizens' constitutionally guaranteed rights.

As was the case in New Orleans, LA after hurricane Katrina, the Mayor and local law enforcement officials took it upon themselves to declare martial law and were determined to disarm everyone. They did not limit their confiscation to the looters and rioters, but all law-abiding citizens as well. They even announced to the press that "No one shall be armed. Only law enforcement will be armed." Then they proceeded to go house to house and confiscated all legally owned and possessed firearms in New Orleans. People who were using their firearms simply for protection from looters and rioters were disarmed for the sake of "safety" according to the Mayor and the Chief of Police. In a situation of complete lawlessness the one right that you should be able to count on more than anything else should be your right to keep and bear arms, and the city of New Orleans stole that right away from their citizens. It is this right alone which protects and guarantees all the rest when government ceases to function efficiently.

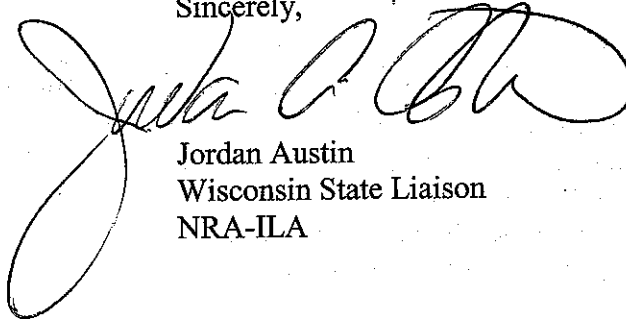
Now, Wisconsin is not known for the types of hurricanes that ravaged New Orleans, but tornados have done their fair share of damage to this region, and can just as easily result in a similar situation. One only needs to look back to less than a year ago when a tornado demolished the town of Greensburg, KS. The citizens were evacuated from the town and all firearms were rounded up and locked away from the citizens of Greensburg. When they attempted to retrieve their property they were denied this request

and given no reason for the confiscation other than safety and security. They weren't even given a time table for when and if their firearms would even be returned to them.

This situation can easily happen anywhere, which is why similar legislation has been passed or introduced in over 30 states. The United States Congress passed federal legislation preventing such types of confiscation by federal governmental and law enforcement agencies. AB 581 will mirror the federal legislation, but will clarify that no state or local governmental or law enforcement agency can confiscate your legally owned and possessed firearms, or in any way restrict your 2nd amendment rights during a declared state of emergency. To demonstrate how much support this bill already had among federal legislators in 2006, 7 out of 8 WI Congressman voted for the House bill with an overall House vote of 322-99 and both WI Senators voted for the Senate bill with an overall Senate vote of 84-16.

This crucial legislation has already seen nationwide support and I encourage this committee to support this bill and vote it favorably out of committee and to the Assembly floor. I thank you for the opportunity to speak today and I would be happy to answer any questions you might have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jordan Austin', is written over a large, stylized, looped graphic element that resembles a large 'J' or a stylized signature flourish.

Jordan Austin
Wisconsin State Liaison
NRA-ILA